



THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Michel Lesimple

Art Unit : 1723

Serial No. : 09/648,588

Examiner : C. Cooley

Filed : August 25, 2000

Title : DRIVING HEAD FOR STIRRER CANS

**MAIL STOP REISSUE**

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

**RECEIVED**

**SEP 22 2003**

**TC 1700**

SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT UNDER RULE 1.97(i)

Applicant submits a copy of the attached reference pursuant to 37 CFR 1.97(i).

Identification and date information is not known to establish whether this material is in fact prior art and what its relevance might be. The reference is a copy of a communication from John Dedoes of Dedoes Industries, Inc., a competitor of the assignee of the above-identified reissue application, directed to Mr. Daniel Fillon, president of the assignee. The reference consists of a 2-page memorandum from Mr. Dedoes, and an attached unidentified sheet of drawing labeled Fig. 2<sup>1</sup>. In the section of the memorandum subtitled "Fillon Reissue Patent," Dedoes indicates that the drawing depicts prior art to the Fillon reissue application.

The assignee's European counsel has informed the undersigned that the assignee has repeatedly asked Dedoes and its European partner AEML for identification and description of the apparatus supposedly represented in Fig. 2, in order to evaluate its status as prior art. We are advised that the only information forthcoming from representatives of AEML in Europe is their indication that the drawing came out of an Italian patent to a company named TECMEC

<sup>1</sup> The memorandum was provided to the undersigned electronically as a Word document with the drawing as a separate .jpg attachment. The Word document had a so-called "date code" so that the current date is always substituted when printed. The actual date of receipt of the document is believed to be around March 31, 2003.

**CERTIFICATE OF MAILING BY FIRST CLASS MAIL**

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I hereby certify under 37 CFR §1.8(a) that this correspondence is being deposited with the United States Postal Service as first class mail with sufficient postage on the date indicated below and is addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

September 12, 2003

Date of Deposit

*Pamela M. DeThomas*  
Signature

Pamela M. DeThomas

Typed or Printed Name of Person Signing Certificate

Applicant : Michel Lesimple  
Serial No. : 09/648,588  
Filed : August 25, 2000  
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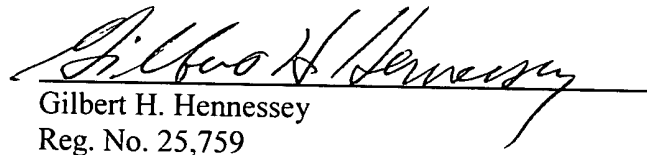
Attorney's Docket No.: 10767-003001 / 870-F 51299-  
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SRL. As best we have been able to determine, the TECMEC Italian patent is IT 1250630 dated April 21, 1995.<sup>2</sup> The undersigned has been trying to obtain a copy of this Italian patent but to date has been unsuccessful. A patent family search turned up no counterparts. The USPTO library does not have a copy. The undersigned has recently requested information about the attached and the TECMEC patent from Dedoes' U.S. patent Attorney Mr. Douglas Sprinkle but so far has not received a substantive reply. When and if a copy of this Italian patent or any other information about the sketch turns up before payment of the issue fee, it will be made of record.

This statement is being filed to place the attached material in the file and make it of record in the application under Rule 1.97(i) and thus no fee is believed to be due in connection with this filing. Please apply any charges or credits that may nevertheless be applicable to Deposit Account No. 06-1050.

Respectfully submitted,

Date: 9/12/03

  
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<sup>2</sup> IT 1250630 was apparently filed as application IT 91MI1846 on July 4, 1991, entitled "Struttura Di Armadio Agitatore Miscelatore Per Vernici, Con Mezzi Di Protezione," (Derwent translation: "Varnishes Mixer Casing"), invented by Carlo Desinano and assigned to TECMEC.

## MEMORANDUM



TO: Daniel Fillon  
FROM: Dedoes Industries, Inc.  
RE: Patent Matters  
DATE: August 27, 2003

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### PURPOSE

The purpose of this memo is to set forth the position of Dedoes with respect to the various patent issues between Fillon and Dedoes. This is done in an effort to avoid litigation and in the hope that a business resolution can be reached between Dedoes and Fillon that is acceptable to both. Dedoes does not welcome the \$400,000 or \$500,000 expenditure required should this dispute end in litigation and we assume the same is true for Fillon. Certainly a business solution is more advantageous for both Dedoes and Fillon.

### DEDOES PATENT

Dedoes owns US Patent No. 5,482,370 and Dedoes believes that Fillon infringes this patent. Although it is certainly possible for Fillon to modify its design to avoid infringement of this patent, we are advised that Dedoes is able to recover damages for the last six years of sales of the infringing lid by Fillon.

### FILLON REISSUE PATENT

Although the reissue patent of US Patent No. 5,800,057 has not yet been issued by the US Patent Office, we are advised that it apparently will issue in the next two or three months. This reissue patent contains both the claims of the original US patent as well as new claims directed to the downwardly extending anti rotation finger. For the sake of settlement discussions, we concede that the Dedoes Alliance system will fall within the scope of these new claims in the reissue patent.

Dedoes does not infringe any of the claims of the original US Patent. These claims are limited to lids having a "rotating plate" and a "grip" which engages the rotating plate, as well as other limitations. As you know, the Alliance system does not include such a rotating plate nor does it include the required "grip". (Claim 11 is a little different and does not require the "grip". However, it does require a spring which the Alliance system does not have.)

The newly added claims in the Fillon reissue patent are broader in scope than the original claims. Consequently, as a matter of US law, Dedoes has acquired "intervening rights" with respect to its Alliance system. The actual scope of such intervening rights is a matter for the US Court to determine, but we are confident that a US Court would permit Dedoes to continue to manufacture the Alliance system in view of the huge investment made to date by Dedoes.

Additionally, the newly added claims of the reissue patent are so broad in scope that they seem to cover the attached system that was disclosed in 1991 and thus long before the filing date of the original Fillon patent. We are advised that if the patent claims cover devices that were in the public domain, i.e. "prior art", that the patent claim is invalid.

#### FILLON GERMAN PATENT

The Fillon German Utility model does present problems in Germany, at least for the short term. However, in view of the prior art mixer mentioned above, the validity of the German Utility model is also questionable. However, the Alliance System was introduced in Germany before your German Utility model, as AEML's European Patent Attorney has explained to your European Attorney.

#### CONCLUSION

Should litigation result between Fillon and Dedoes, Dedoes will certainly assert not only its intervening rights to continue to manufacture the Alliance system, but will also challenge the validity of both the Fillon reissue patent and Fillon German Utility Model. This will, of course, make our respective attorneys very wealthy and very happy.

However, in the end not much will change except our corporate profits. Fillon is certainly able to change its paddle design to avoid infringing the Dedoes patent and, should Fillon prevail against Dedoes, Dedoes will simply change its Alliance system to adapt the anti rotation mechanism of the prior art device discussed above. Competition between Dedoes and Fillon will continue as always.

Certainly there is a better way.

John Dedoes  
Dedoes Industries, Inc.